

DEPT. OF TRANSPORTATION
DOCKETS

2003 DEC -8 A 9:16

ENVIRONMENTAL ASSESSMENT

Notice of Propose Rulemaking

RSPA-03-16370-2

Docket RSPA-03-16370 (HM-233)

Hazardous Materials; Incorporation of Exemptions into Regulations

November, 2003

Environmental Assessment
for
Notice of Proposed Rulemaking
Incorporation of Exemptions into Regulations
RSPA-03-16370 (HM-233)

Background

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. Based on RSPA's initiatives, we are proposing to convert and incorporate into the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) certain widely used exemptions with a safe and satisfactory shipping experience. We developed this assessment to consider the effects of these regulations on the environment, and determine whether a more comprehensive environmental impact statement may be required.

Purpose of Action

Transportation of hazardous materials in commerce is subject to the requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), issued under authority of Federal hazardous materials transportation law, codified at 49 U.S.C. 5101 *et seq.* Based on our own initiatives, we are proposing to amend the HMR by converting certain commonly used exemptions that have an established history of safety into regulations. This will eliminate the

need for the current exemption holders to apply for renewal of the exemption every two years. Additionally, the proposed regulatory changes provide wider access to the benefits of the provisions granted in the exemptions, thus facilitating commerce.

Description of Action

We are proposing the following:

- Provide relief from both bulk and non-bulk specification packaging requirements for mechanical displacement meter provers that are either truck or chassis mounted;
- Authorize the use of non-DOT specification cylinders for overpacking and transporting in commerce damaged or leaking cylinders of certain pressurized and non-pressurized hazardous materials; and
- Provide relief from certain segregation requirements which prohibit storing, loading, and transporting together on the same transport vehicle cyanides, cyanide mixtures or solutions and acids with Class 8 liquids or Division 4.2 materials with Class 8 liquids.

Alternatives Considered

In developing this rule, we considered two alternatives:

- (1) Do nothing.
- (2) Amend the HMR by converting certain exemptions to regulations.

Alternative (1). Because our goal is to facilitate uniformity, compliance, commerce and safety in the transportation of hazardous materials, we rejected this alternative.

Alternative (2). Converting commonly used exemptions that have an established transportation history of safety into regulations provides wider access to the benefits of the provisions granted in the exemptions to the regulated community. It also eliminates the need for exemption holders to apply for renewal of the exemption every two years. These proposed changes are in furtherance of the safe transportation of hazardous materials in commerce. This is the selected alternative.

Environmental Consequences

Hazardous materials are transported by aircraft, vessel, rail, and highway. The potential for environmental damage or contamination exists when packages of hazardous materials are involved in accidents or en route incidents resulting from cargo shifts, valve failures, package failures, or loading, unloading, or handling problems. The ecosystems that could be affected by a release include air, water, soil, and ecological resources (for example, wildlife habitats).

The hazardous material regulatory system is a risk management system that is prevention-oriented and focuses on identifying a hazard and reducing the probability and quantity of a hazardous material release. RSPA has granted relief from specification packaging for mechanical displacement meter provers, allowed use of salvage cylinders to overpack and transport damaged or leaking cylinders, and provided exceptions from certain segregation requirements.

Meter provers contain only residual quantities of hazardous materials and, therefore, any release would present very little danger to the environment. We have authorized the use of salvage cylinders under exemptions for several years with safe and satisfactory transportation

experience. The salvage cylinders are used to overpack damaged or leaking cylinders and limit the amount of hazardous materials that are released into the environment. Similarly, under exemptions we have authorized the transportation of waste cyanides, waste cyanide mixtures or solutions with acids under certain conditions with safe and satisfactory transportation experience. The cyanide materials must be packaged in lab packs thereby reducing the chances of commingling with acids under normal transportation conditions.

The proposed changes would not cause significant, long-term environmental damage if the hazardous materials are released. Converting the exemptions to regulations may have a minor positive impact on the environment in the case of the salvage cylinders. By allowing the shipper to contain the release of a hazardous material by overpacking the damaged or leaking cylinder under the HMR instead of an exemption, the shipper is able to respond quicker and less hazardous material is released into the environment.

Neither the “do nothing” alternative nor the action alternative result in any significant impacts on transportation safety or the environment.

Conclusion

Based on the foregoing analysis, we have preliminarily concluded that there would be no significant environmental impacts resulting from these changes.

List of Agencies and Persons Consulted

Gigi Corbin - Office of Hazardous Materials Standards

Diane LaValle - Office of Hazardous Materials Exemptions and Approvals

Delmer Billings - Office of Hazardous Materials Exemptions and Approvals

Doug Reeves - Office of Hazardous Materials Technology

Bob Kern - Office of the Chief Counsel